HB 21-1105

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 20, 2021)

Drafting Number:	LLS 21-0137	**Date:**	May 26, 2021
Prime Sponsors:	Rep. Kennedy Sen. Hansen	**Bill Status:**	Senate Appropriations
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Bill Topic: **LOW-INCOME UTILITY PAYMENT ASSISTANCE CONTRIBUTIONS**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☒ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

This bill requires investor-owned utilities to collect a monthly energy assistance system benefit charge from each customer beginning October 2021 to help finance the low-income energy assistance programs administered by Energy Outreach Colorado, the Colorado Energy Office, and the Department of Human Services, and eliminates the existing Tier 2 severance tax allocations to these programs. It increases state revenue and expenditures beginning in FY 2021-22, and impacts state transfers beginning in FY 2024-25.

Appropriation Summary: No appropriation is required as the Supplemental Utility Assistance Fund and the Low-Income Energy Assistance Fund are continuously appropriated.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill, as amended by the Senate Finance Committee. It has also been updated to reflect new information from the CEO.

Table 1
State Fiscal Impacts Under HB 21-1105[1]

		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year FY 2023-24	Out Year FY 2024-25
Revenue	Cash Funds	$6,561,251	$12,018,160	$14,534,550	$14,450,218
	Total Revenue	**$6,561,251**	**$12,018,160**	**$14,534,550**	**$14,450,218**
Expenditures	Cash Funds	$6,516,308	$11,901,911	$14,422,775	$14,355,755
	Centrally Approp.	$44,943	$116,249	$111,775	$94,464
	Total Expenditures	**$6,561,251**	**$12,018,160**	**$14,534,550**	**$14,450,219**
	Total FTE	**2.6 FTE**	**6.5 FTE**	**6.5 FTE**	**5.5 FTE**
Transfers	Cash Funds	-	-	-	up to ($13,000,000)
	Net Transfer	**-**	**-**	**-**	**up to ($13,000,000)**
TABOR Refund		-	-	-	-

[1] Table 1 omits the $7.0 million in outside funding that, if received, would be used to bridge the LEAP eligibility system and the Colorado Benefits Management System to allow only those SNAP households that are not LEAP eligible to receive the fuel assistance payment. If outside funding is received, it is assumed that this funding would be spent in FY 2021-22 and FY 2022-23, that DHS will have authority to expend this funding, and that this funding would be reappropriated to OIT to manage the project. Revenue and expenditures in FY 2023-24 and FY 2024-25 reflect "at least" amounts to cover LEAP-ineligible SNAP households.

Summary of Legislation

This bill requires investor-owned utilities to collect a monthly energy assistance system benefit charge from each customer beginning October 2021 to help finance the low-income energy assistance programs administered by Energy Outreach Colorado, the Colorado Energy Office, and the Department of Human Services, and eliminates the existing Tier 2 severance tax allocation to Low-Income Energy Assistance Programs.

Monthly energy assistance system benefit charge on utility customers. Beginning October 2021, each investor-owned utility is required to collect a monthly energy assistance benefit charge from all customers except those receiving utility bill assistance, and to transfer these funds to Energy Outreach Colorado. The charge is initially $0.50 on electric and natural gas services through September 2022; thereafter it is $0.75. Beginning October 1, 2023, the charge is annually adjusted for inflation. Utilities are required to transfer benefit charge revenue to Energy Outreach Colorado. This section is repealed on January 1, 2029.

Funding to Energy Outreach Colorado, the Colorado Energy Office, and the Department of Human Services. Energy Outreach Colorado is required to use the energy assistance system benefit charge to help finance direct utility bill payment assistance and energy retrofits to low-income households within the investor-owned utility's or an affiliate's service territory, as well as to perform community outreach. Funding allocations are dependent on revenue collections, as detailed in the bill, with amounts credited to the Colorado Energy Office for its weatherization assistance program, to the Department of Human Services for fuel assistance benefits, and the remainder to Energy Outreach Colorado, with the Legislative Commission on Low-income Energy and Water Assistance determining allocations. The bill prohibits Energy Outreach Colorado from using any funds collected from the energy assistance system benefit charge for employee salaries or bonuses. Any money collected for water assistance must be held in a separate account and used to provide low-income water assistance. The organization is required to submit a copy of its budget to the Colorado Energy Office for review.

Fuel assistance benefit. On or after January 1, 2024, the Department of Human Services is required to implement a program to distribute a fuel assistance benefit via Electronic Benefits Transfer (EBT) cards to households receiving Supplemental Nutrition Assistance Program (SNAP) benefits, but that do not receive Low Income Energy Assistance Program (LEAP) benefits—if this identification is made possible through a database connection, as described further below—in order to qualify those households for the standard utility allowance to maximize their SNAP benefits. These payments will be made from the newly created and continuously appropriated Supplemental Utility Assistance Fund in the Department of Human Services, which will receive funding from Energy Outreach Colorado.

The Department of Human Services will submit a budget to Energy Outreach Colorado and receive benefit charge funding on the following schedule:

- October 1, 2021 – DHS submits first half-year budget request to EOC
- January 1, 2022 – DHS receives half-year funding from EOC
- April 1, 2022, and each year thereafter – DHS submits annual budget request to EOC
- July 1, 2022, and each year thereafter – DHS receives annual funding from EOC

Database connection for fuel assistance benefit. To allow the Department of Human Services to maximize the number of households that are receiving both the SNAP and LEAP benefits, the department must develop a database connection between the LEAP eligibility system and the Colorado Benefits Management System (CBMS) using outside funds. If outside funds are not received, the DHS must notify the Joint Technology Committee that outside funds were not received, and it can instead make fuel assistance payments to all households that receive SNAP benefits and is not required to commence work on the database connection.

Water utilities. The bill creates a voluntary, opt-in program among water utilities to help finance water assistance for low-income customers provided by Energy Outreach Colorado. A water utility is defined as a water corporation or municipal water provider that provides retail water service to Colorado customers.

Legislative Commission on Low Income Energy and Water Assistance. The Legislative Commission on Low-income Energy Assistance is renamed to the Legislative Commission on Low-income Energy and Water Assistance. On May 1, 2022, the bill repeals and reinstates the commission under the Colorado Energy Office, which is required to provide staff support. The bill modifies the composition of the commission effective May 1, 2022, reducing it from 11 members to 7 to include representatives from the Department of Human Services, the Colorado Energy Office, and Energy Outreach Colorado, and 4 Governor-appointed members meeting criteria outlined in the bill. The commission is newly charged with: serving as a policy advisor to the Colorado Energy Office with respect to any U.S. Department of Energy grant award; serving as an advisory council to any Colorado water utilities that provide or seek to provide water assistance and efficiency programs to their customers; and reviewing annual budget submissions from Energy Outreach Colorado regarding the organization's use of the energy assistance system benefit charge.

Reporting. Energy Outreach Colorado is required to submit annual financial reporting on the low-income energy assistance program, to be reviewed by the Colorado Energy Office and the commission. Additionally, the Colorado Energy Office must submit an annual report to the General Assembly, the Legislative Audit Committee, and the Office of the State Auditor by March 31 each year that provides an itemized account of the money that the office received from the energy assistance system benefit charge for its weatherization assistance program.

Severance Tax Operational Fund. The bill repeals the inclusion of three Low-income Energy Assistance Programs administered by the Department of Human Services, Energy Outreach Colorado, and the Colorado Energy Office, as Natural Resources and Energy Grant Programs supported by transfers from the Severance Tax Operational Fund.

Background

Approximately 3.4 million electric and gas customers are served by investor-owned utilities in the state, including 1.6 million electric meters and 1.8 million gas meters. Approximately 318,876 households in the state receive federal SNAP benefits for at least a portion of the year; and of these households, it is estimated that 127,550 are not eligible for the LEAP benefits.

State Revenue

Beginning in FY 2021-22, the bill will increase fees assessed by regulated investor-owned utilities on customers. Also beginning in FY 2021-22, the bill will increase state revenue to the Supplemental Utility Assistance Fund and the Low-income Energy Assistance Fund. Finally, the bill may increase outside funding for computer programming. These revenue impacts are detailed below.

Fee Impact on Investor-Owned Utility Customers

Table 2 below identifies the fee impact of this bill, which applies to customers of investor-owned utilities that do not receive direct utility bill assistance. Fee amounts are set at $0.50 per month on electric and natural gas services through September 2022, $0.75 thereafter, and adjusted for inflation beginning in October 2023. Fee revenue is distributed to Energy Outreach Colorado, which is not part of state government; and a portion of the funding will be transferred into the state starting in FY 2021-22 to the Department of Human Services and Colorado Energy Office. With the exception of amounts transferred to the state, this revenue is not subject to TABOR.

Table 2
Fee Impact on Investor-Owned Utility Customers

Customer Type	Annual Fee	Number Affected	Fee Impact FY 2021-22	Fee Impact FY 2022-23
Gas and Electric Customers *(excluding SNAP households that are not LEAP eligible)*	*Oct 21 – Sept 22*: $6.00 *Oct 22 – Sept 23:* $9.00	up to 3,227,450	up to $14.5 million	up to $26.6 million

Fee Revenue Received by State Agencies

A portion of the fee revenue received by Energy Outreach Colorado is transferred to state agencies, as shown in Table 3. Once transferred to a state agency, this revenue is subject to the state's revenue limits under TABOR.

Supplemental Utility Assistance Fund (DHS). Beginning in FY 2021-22, cash fund revenue to the newly created Supplemental Utility Assistance Fund in the Department of Human Services will increase by the amounts shown in Table 3, which reflect the expected department expenditures (see Table 4 for detail). Funding is received from Energy Outreach Colorado through the energy assistance system benefit charge to cover the department's direct and indirect costs to administer supplemental fuel assistance.

Weatherization Assistance Program (CEO). Beginning in FY 2021-22, cash fund revenue to the Low-Income Energy Assistance Fund in the Colorado Energy Office will increase by the amounts shown in Table 3. Funding is received from Energy Outreach Colorado through the energy assistance system benefit charge. The amount expected to be received by the Colorado Energy Office is equal to 45 percent of the total fee revenue collected by Energy Outreach Colorado, after subtracting 2 percent of total revenue for use by Energy Outreach Colorado for public outreach as well as allocating funding to cover DHS costs to provide supplemental utility assistance.

Table 3
Energy Assistance System Benefit Charge Revenue to DHS and CEO

Program (Dept.)	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
Supplemental Utility Assistance Fund (DHS)	$279,743	$493,542	at least $3,085,512	at least $2,934,651
Weatherization Assistance Program (CEO)	$6,281,508	$11,524,618	$11,449,038	$11,515,568
Total	**$6,561,251**	**$12,018,160**	**$14,534,550**	**$14,450,219**

Outside Funding for Database Connection between LEAP and SNAP

The bill requires the DHS to seek outside funding to build a database connection between the LEAP and SNAP eligibility systems, estimated to cost $7.0 million over FY 2021-22 and FY 2022-23. The bill allows the DHS to expend these funds, if received, and this funding is not subject to TABOR.

State Transfers

Based on the March 2021 Legislative Council Staff revenue forecast, the bill will decrease state transfers by up to $13.0 million beginning in FY 2024-25, as discussed below.

The Department of Natural Resources administers the Severance Tax Operational Fund, which receives 25 percent of statewide severance tax revenue annually. The distribution of revenue in the fund is based on a statutory formula which first directs revenue to Core Programs (formerly known as "Tier 1" programs) that support permanent staff and ongoing operations at DNR and the Colorado Geological Survey. It then requires that the Operational Fund maintain a reserve equal to 100 percent of Core Program appropriations. When there is available revenue in excess of these Core Program obligations, it is distributed proportionally across a collection of Natural Resources and Energy Grant Programs (formerly known as "Tier 2" programs) up to a maximum amount specified in statute.

Under current law, three low-income energy assistance programs and funds (collectively referred to as LEAP) are identified as Natural Resources and Energy Grant Programs. Together, these programs are authorized to receive up to a total of $13.0 million in transfers from the Operational Fund, distributed as follows, contingent on available revenue:

- 25 percent to the DHS Low-income Energy Assistance Fund (up to $3.25 million);
- 25 percent to the EOC Low-income Energy Assistance Fund (up to $3.25 million); and
- 50 percent to the CEO Low-income Energy Assistance Fund (up to $6.5 million).

Distributions to Grant Programs now occur partially in arrears and are made in one lump sum each August from actual revenue that accumulated in the Operational Fund during the prior, most recently closed fiscal year. Based on the March 2021 LCS Revenue Forecast, the Operational Fund is not expected to fulfill Core Program obligations (appropriations plus reserve) through FY 2022-23, which means there will be no excess revenue to distribute to Grant Programs in August 2021 (FY 2021-22), 2022 (FY 2022-23), or 2023 (FY 2023-24).

By eliminating LEAP as an Operational Fund Grant Program, the bill discontinues a state transfer to LEAP programs by up to $13.0 million and decreases the total annual Grant Program obligation by $13.0 million. As the size of the total Grant Program obligation dictates the percentage of funding that each program receives relative to available revenue, funding will be spread over a smaller pool of programs in future years when revenue is sufficient to trigger transfers to Natural Resources and Energy Grant Programs.

State Expenditures

The bill will increase state expenditures by the amounts shown in Table 4. Expenditures in the Department of Human Services will be paid from the Supplemental Utility Assistance Fund. Expenditures in the Colorado Energy Office will be paid from the Low-Income Energy Assistance Fund.

Table 4
Expenditures Under HB 21-1105

Cost Components	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
Department of Human Services				
Personal Services	$117,492	$201,417	$151,976	$71,176
Operating Expenses	$1,620	$2,700	$2,700	$1,350
Capital Outlay Costs	$12,400	-	$6,200	-
Computer Programming	$125,600	$251,200	$125,600	$80,400
Fuel Assistance Payments[1]	-	-	$2,552,276 or $6,379,528 per year	
EBT Transaction Costs[1]	-	-	$85,459 or $213,607 per year	
Client Noticing[1]	-	-	$127,550 or $318,817 per year	
LEAP Education and Outreach[1]	-	-	$0 or $50,000 per year	
Centrally Appropriated Costs[2]	$22,631	$38,225	$33,751	$16,440
FTE – Personal Services	1.2 FTE	2.0 FTE	2.0 FTE	1.0 FTE
DHS Subtotal	**$279,743**	**$493,542**	**at least $3,085,512**	**at least $2,934,651**
Colorado Energy Office				
Personal Services	$91,861	$364,986	$364,986	$364,986
Operating Expenses	$1,890	$6,075	$6,075	$6,075
Capital Outlay Costs	$12,400	$0	$0	$0
Computer Upgrades/IT Support	$7,500	$21,800	$21,800	$21,800
Vehicles and Travel	$13,200	$13,200	$13,200	$13,200
Training	$13,600	$13,600	$13,600	$13,600
Weatherization Assistance[3]	$6,118,745	$11,026,933	$10,951,353	$11,017,883
Centrally Appropriated Costs[2]	$22,312	$78,024	$78,024	$78,024
FTE – Personal Services	1.4 FTE	4.5 FTE	4.5 FTE	4.5 FTE
CEO Subtotal	**$6,281,508**	**$11,524,618**	**$11,449,038**	**$11,515,568**
Total	**$6,561,251**	**$12,018,160**	**$14,534,550**	**$14,450,219**
Total FTE	**2.6 FTE**	**6.5 FTE**	**6.5 FTE**	**5.5 FTE**

[1] *If funding is received to connect the LEAP eligibility system and the Colorado Benefits Management System to allow only those SNAP households that are not LEAP eligible to receive the $20.01 payment, ongoing expenditures for fuel assistance payments, transaction costs, client noticing, and LEAP outreach will fall on the low range. If funding is not receive, costs will fall on the high range. DHS subtotal costs include the low-range costs.*
[2] *Centrally appropriated costs are not included in the bill's appropriation.*
[3] *Weatherization assistance amounts reflect anticipated revenue to CEO, as shown in Table 2, less CEO's administrative costs.*

Department of Human Services. The DHS requires 2.0 FTE Business Analyst and Project Manager to implement the new fuel assistance benefit from mid-year FY 2021-22 to mid-year FY 2023-24. From FY 2023-24 on, DHS requires 1.0 FTE Program Specialist to oversee the program. Employee costs include mid-range salary and standard operating and capital outlay costs, and are prorated for a December start date in FY 2021-22.

- *Computer programming.* The DHS requires an estimated 1,800 hours of programming to the Colorado Benefit Management System at $134 per hour in FY 2021-22 and FY 2022-23 in order to issue this benefit to eligible SNAP households in subsequent years. In addition, programming is required in the EBT system, estimated at $15,000, to create a new payment code to issue the fuel assistance payment on households' EBT cards. CBMS costs reduce to 900 hours of programming in FY 2023-24. On an ongoing basis, beginning in FY 2024-25, an estimated 600 hours of data system changes and system maintenance will be provided outside of SNAP pool hours.

- *Fuel assistance payments.* Fuel assistance payments will depend on the availability of an estimated $7.0 million in outside funds for computer programming to connect the LEAP and SNAP eligibility databases. If funding is received, it is estimated that fuel assistance payments will be made to 127,550 households. If funding is not receive, it is estimated that fuel assistance payments will be made to 318,875 households; Table 4 indicates these ranges beginning in FY 2023-24. Costs for fuel assistance payments, transactions costs, client noticing, and an LEAP education and outreach will depend on whether or not a database connection exists. The EBT transaction fee is $0.67 and client noticing costs are $1.00 per mailing, including postage. The DHS will provide training, education, and outreach to LEAP customers, counties, and partners to ensure that LEAP-eligible households understand that this fuel assistance payment does not preclude them from applying for LEAP assistance if the database connection is not built.

Colorado Energy Office. The Colorado Energy Office requires 1.4 FTE in FY 2021-22 and 4.5 FTE in FY 2022-23 and future years. The full staffing level includes 3.0 FTE Program Management I to administer the expanded weatherization assistance program; 1.0 FTE Inspector III to perform home inspections, quality control, training, and technical support; and 0.5 FTE Account II to perform program accounting. First-year costs are prorated for an October 1, 2021, start date. Costs also include a one-time database upgrade and ongoing technical support—approximately half of which will be reappropriated to OIT in future fiscal years; vehicles and travel for site inspections; and training costs. The office's work in supporting the commission can be accomplished within existing appropriations.

- *Weatherization Assistance Program.* As shown in Table 4, the Colorado Energy Office will have varying amounts of funding in initial fiscal years to use for its Weatherization Assistance Program. Actual amounts will depend on charge benefits collected from utility customers and costs in the Department of Human Services. Available funding is expected to hold steady from FY 2024-25 on.

Department of Regulatory Agencies. The bill permits the Public Utilities Commission to initiate a rulemaking and may create work for the PUC to address any benefit charge-related issues brought by utilities. These impacts are assumed to be accommodated during the normal course of business.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 4.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by $28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: https://leg.colorado.gov/node/2211881.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Colorado Energy Office	Governor	Human Services
Information Technology	Law	Natural Resources
Regulatory Agencies		